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C O N F I D E N T I A L SECTION 01 OF 03 SUVA 000416

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SUBJECT: FIJI UPDATE 8/20/07: BAINIMARAMA "JOKING" RE
ELECTION DATE; UNCERTAINTY IN THE COURTS; IG HYPOCRISY;
TOURISM WORRIES; CHINA RELATIONS

REF: SUVA 391

Classified By: Amb. Dinger. Sec. 1.4 (B,D).

Summary

11. (C) Fiji interim PM Bainimarama was only joking in announcing an election date, according to the interim Attorney General. Critics don't find that funny. Pacific Island Forum (PIF) and EU dialogues with the interim government (IG) are adding to doubts about IG motives. Some court cases suggest rule of law continues, though the big case by PM Qarase against the coup is moving slowly, causing concern. Fiji lawyers are divided about the coup, reflecting a cultural divide. The IG's approach to tax-evasion allegations against two prominent persons has brought charges of hypocrisy. IG inquiries into media freedom and the 2006 election have raised concerns about motive, as has a move to "reform" the Great Council of Chiefs. Public-service unions that went on strike gave up when faced with an IG stone wall. The unions are going to court. The tourism industry rejects Bureau of Statistics claims that the sector is relatively healthy. China intends to maintain its full range of aid programs for Fiji, seeing the coup as an internal matter. The IG has announced a liberalization of its visa policy toward China, hoping to attract hundreds of thousands of tourists. Some in Fiji fear negative consequences. End summary.

March 2009 election date...a joke

12. (C) Commodore Bainimarama told Fiji media 8/15 that general elections would take place on March 13, 2009, if all necessary preparations can be accomplished in time. On 8/18, interim Attorney General Sayed-Khayum told the media Bainimarama had only been joking. That triggered an uproar. NGO activist Shamima Ali responded that the interim government (IG) "is led by a bunch of jokers," and turning the political future into a joke "doesn't move the country forward." The Times newspaper expressed dismay at the "joke or lie," expressing concern that the IG may not really be serious in its negotiations with the Pacific Islands Forum (PIF) and the EU about election dates. Comment: we have heard skepticism from people engaged in both the PIF's working group and the EU dialogue about IG motives. An outside observer who met with Bainimarama and some of his senior advisors three weeks ago noted that none of them raised the PIF process. The IG seemed focused on the "clean up" agenda, not on moving the country to early elections.

Court tests: varied news

13. (C) Several cases percolating in the Fiji judicial system are testing coup legalities. Justice Winter (whose contract ends in October) ruled on Aug. 17 that the IG's Fiji Independent Commission Against Corruption (FICAC) has no right under the Constitution to prosecute criminal cases, despite a post-coup Presidential decree ostensibly giving FICAC that authority. The ruling appears to be a shot across the bow of the IG's claim it can rule by decree. In PM Qarase's suit challenging the coup, the IG has belatedly moved to strike Bainimarama and the RFMF as defendants. The IG proposes that President Iloilo's grant of immunity to the RFMF protects the military from any suits. A co-architect of Fiji's 1997 Constitution, Brij Lal, has publicly dismissed any idea that the President had power to issue the immunity decree. Acting CJ Gates has taken the Qarase case for himself, with two retiree-judge friends in support. Next hearing in the slow-moving case is in early October. Comment: Qarase's lawyer, Tevita Fa, is playing a very non-aggressive strategy, not challenging Gates to recuse himself, not pushing for early court dates. Other lawyers, who aspire to a rapid, definitive ruling on the coup's constitutionality by a neutral court, are dismayed.

Petitioning the President re CJ Fatiaki

14. (C) Prominent Suva lawyer Hamendra Nagin delivered a petition signed by 102 Fiji "senior lawyers" to President Iloilo on 8/17. The petition asked for the immediate restoration of Chief Justice Fatiaki to office and the removal of Acting CJ Gates. Reportedly, Fatiaki finally

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filed suit against his suspension from office last week. One of the reasons some lawyers gave for not signing the petition was that Fatiaki hadn't stepped up himself, so why should others take a risk. Prominent Fiji lawyers tell us the legal community is divided roughly 60/40 between those who oppose and those who favor the coup. In many cases, such judgments have less to do with legalities, than with culture. In particular, a number of ethnic-Indian lawyers figure the coup is "pay back" for past discrimination.

Tax evasion in the eye of the beholder

15. (C) Sources have surreptitiously provided the media tax records of an interim minister (by all accounts Finance Minister Chaudhry) that suggest he dramatically underpaid income taxes for several recent years until confronted. The Fiji Post and Fiji Sun have publicized the matter in front-page stories. They and critics of the IG have suggested that a tax evader ought not to be overseeing a "clean up" campaign. The critics have urged Bainimarama to initiate a FICAC investigation and to suspend Chaudhry pending results. The critics note that the IG suspended Chief Justice Fatiaki in January, seemingly on rumor alone. Just a few weeks ago FICAC seized Fatiaki tax records flashing a suspicious warrant issued by a newly appointed magistrate Ana Rokomokoti who until recently was a military lawyer. The revenue and customs authority (FIRCA) CEO, who objected, was forced to resign. The FICAC justification for its raid supposedly was to build a tax case against Fatiaki. Critics charge hypocrisy. Bainimarama has stated he has no intention of suspending anyone in the IG cabinet based on "mere allegations." Chaudhry reportedly is undertaking a "clean up" of FIRCA, attempting to sweep away all those who had a hand in pressing the tax cases against him.

Concern about "human rights" inquiries

16. (C) The Director of the Fiji Human Rights Commission (FHRC) Shaista Shameem has initiated two inquiries: looking into media freedom and into the legitimacy of the 2006 election. Four moguls of the Fiji media expressed concern

about the terms of reference for the media inquiry, which appear to go beyond human rights issues. Given Shameem's support for restrictions on human rights in the post-coup environment, the media perceive a fishing expedition with a potential for a presidential decree restricting media rights.

On the election inquiry, an ad seeking witnesses first ran only in a Hindi-language newspaper. When ethnic Fijians became alarmed by that, the ad was released to other newspapers. Qarase's SDL party has pointed out that a number of international observers judged the 2006 elections reasonably free and fair. Comment: Given Shameem's recent history, many observers figure both FHRC inquiries have pre-ordained outcomes, aimed to further the IG's agenda.

Making the GCC a tool of the state

¶7. (C) Interim Fijian Affairs Minister Ganilau and leaders of the Great Council of Chiefs (GCC) seemingly reached an agreement in early August: the Minister rescinded suspension of the GCC instituted in April after the GCC refused to bless the IG's candidate for Vice President; in return the chiefs withdrew their lawsuit challenging the suspension's constitutionality. However, after the suit was withdrawn, the Minister announced he had removed the suspension of the GCC but not of the members. GCC leaders were not amused and reintroduced their suit on 8/20. Comment: It appears the IG intention is to redesign the GCC into a tool of the State, rather than an independent force to look after ethnic-Fijian interests as intended by the 1997 Constitution. Ganilau is shortly to name several senior chiefs to assist him in designing reforms. Comment: High chiefs have stood their ground several times against the IG since the coup. Those chiefs are likely to remain stubborn about IG efforts to "reform" their institution.

A new Minister with an SDL history

¶8. (C) Joketani Cokanasiga, who served as Minister for Home Affairs for a period during PM Qarase's SDL Government, was sworn in on 8/20 as interim Minister for Fisheries and Forests, split off from the interim Ministry of Agriculture,

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Fisheries, and Forests. Bainimarama explained that, given the potential for all those areas to contribute to Fiji's economy, a second minister was needed. Cokanasiga said he felt duty-bound to answer the Commodore's call to duty.

Unions meet IG brick wall; courts beckon

¶9. (C) Public-service strikes intended to convince the IG to rescind a 5% pay cut and a drop in the retirement age from 60 to 55 all ended in failure earlier this month. The unions came to the conclusion that the IG simply would not negotiate and would not go to "compulsory" arbitration either. Bainimarama stated publicly that he did not have to listen to unions because his government is not dependent on elections. The unions are now taking their grievances to court. In one case, the Fiji Teachers Association has already won an injunction requiring the IG to pay the salaries of teachers during the current school holiday. With the strikes ended, interim Public Service Minister Bune informed the media that more public-service pay cuts "may be inevitable," since the IG "has no money at the moment."

Tourism: lies and statistics

¶10. (C) Fiji's tourism industry is engaged in a dialogue with the Bureau of Statistics, which issued first-quarter figures that suggested tourism has barely declined since the coup. The tourism sector begs to differ, having seen numbers and revenues plummet. The tourism industry is pressing the IG for funds to run ad campaigns abroad. Bainimarama has promised over \$2 million; but interim Finance Minister Chaudhry has thus far not coughed up the dollars.

China ignoring the coup; bridges and visas

¶11. (C) The PRC Ambassador to Fiji, Cai Jinbiao, announced at a press event last weekend that China will maintain its full range of aid programs for Fiji since the post-coup political situation is an internal matter. Jinbiao said Fiji remains eligible to apply for concessional loans from a US\$370 million fund for the Pacific announced by Premier Wen in Nadi in April 2006. The Chinese Government awaits IG applications. The interim PM's office has signaled it is working on just such applications, particularly for road, water and other infrastructure projects. Last week, the IG announced it will no longer require Chinese citizens to obtain Fiji visas prior to travel. Now Chinese can obtain a short-term tourist/work visa at immigration, just like Australians, Americans, and a number of others. That suits the new Fiji Ambassador to China, Sir James AhKoy, who aspires to attract up to 700,000 Chinese tourists to Fiji each year. Some letters to the editor are raising concerns that the new policy will bring an influx of long-stayers including criminal elements.

Comment

¶12. (C) The Fiji political situation remains puzzling. Bainimarama appears confident, but his "shoot from the hip" style and his frequent suggestions that elections can wait until Fiji is all cleaned up worry those who see the need for a rapid return to democracy, rule of law, and economic prosperity. Members of the PIF Working Group report Fiji interlocutors are acting worn down. The recent stir over the IG's approach to the Fatiaki and Chaudhry tax cases has illustrated sharply the IG's hypocritical approach on issues like corruption that supposedly motivated the coup. The IG has, thus far, honored court rulings that have gone against it; but the big cases are moving slowly, and it appears Acting CJ Gates, a coup supporter behind the scenes, intends to manipulate the outcomes to the extent he can. Fiji's economy remains weak, with little sign of recovery. That must mean IG revenues are meager at best, explaining Minister Bune's notice that more public-service pay cuts could lie ahead.
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